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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1300th MEETING

Held at Headquarters, New York,
on Friday, 25 March 1994, at 10 a.m.

Chairman: Mr. ANDO

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1300/Add.1.

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The meeting was called to order at 10.25 a.m.

SOLEMN DECLARATION BY A NEWLY ELECTED MEMBER OF THE COMMITTEE IN ACCORDANCE WITH ARTICLE 38 OF THE COVENANT

1. Mr. Ban solemnly undertook to discharge his duties as a member of the Human Rights Committee impartially and conscientiously.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Costa Rica (continued) (CCPR/C/70/Add.4)

2. At the invitation of the Chairman, Mr. Segura and Mr. Tattenbach (Costa Rica) took places at the Committee table.

3. Mr. TATTENBACH (Costa Rica), replying to questions on the relationship between the trade unions and the Solidarista associations in Costa Rica, said that, although he understood the concern of trade unionists at what they regarded as the threat to their interests posed by the Solidarista movement, that movement in fact existed in a completely different sphere from that of trade-union activity. The Solidarista associations attempted to create a sense of solidarity between business and labour by associating workers with the enterprises that employed them. Although they might have the effect of impeding the expansion of trade unions, particularly in the case of large agricultural undertakings, the Government could not restrict the movement, because it felt that that would be an infringement of the right of association. Nevertheless, the activities of the associations were limited by law; they could not, for example, bargain collectively or be represented on official governmental bodies dealing with labour questions, and the right to strike was guaranteed.

4. Mr. SEGURA (Costa Rica), replying to other questions raised by members of the Committee with regard to labour, said that Costa Rica had amended its labour legislation in November 1993, and ILO, after a careful examination, had found the new legislation to be in line with its norms. Answering a question regarding the right to strike, he said that article 61 of the Costa Rican Constitution guaranteed the right to strike except in certain limited cases in which strikes would be against the public interest; article 62 provided that collective labour agreements had the force of law. The conditions for the employment of temporary labour were stringently regulated by the Government. Although abuses did occur in that area, the Government carried out regular and frequent inspections of the working conditions of such labourers.

5. With regard to the treatment of aliens, he noted that larger numbers of refugees and asylum-seekers had entered Costa Rica from other Central American countries during the 1980s, and that they had often belonged to the most disadvantaged parts of the population of those countries. Costa Rica treated those aliens in accordance with the international norms regulating the treatment of refugees and asylum-seekers, and there were constitutional provisions stipulating that they had the same individual and social rights as citizens, although they could not interfere in political matters. The Government, with

(Mr. Segura, Costa Rica)

the help of a number of international organizations, had taken a series of measures intended to help integrate them into the life of the country.

6. On the question of the equality of women, he said that equal rights for women were guaranteed, by law and with Costa Rica's ratification of the Convention on the Elimination of All Forms of Discrimination against Women, legislation had been passed to eliminate such discrimination. It was true, however, that, for historical and cultural reasons, the participation of women in government remained disproportionately low.

7. Replying to questions on the treatment of minorities, he noted that legislation was currently pending to reform the treatment of the disabled in Costa Rica. He rejected any implication that Costa Rica was hiding or withholding information with respect to the treatment of the indigenous population. It was his Government's policy not to repeat information supplied to one United Nations body in other forums, and Costa Rica had submitted an extensive report to the Committee on the Elimination of Racial Discrimination in 1993. With regard to religious discrimination, it was true that the Catholic Church was given preference by the law in the matter of providing religious instruction in schools, but those who did not wish to have such instruction were free not to attend. Moreover, children were taught about other major religions, and efforts were being made to increase the availability to children of information about other religions. In response to a question about the protection of the elderly, he said that, although Costa Rica's population was predominantly young, programmes to protect the elderly had recently been initiated. Because of the nature of Costa Rican society, it was difficult for the Government to deal effectively with the problems of the elderly.

8. Mr. PRADO VALLEJO said he thought that the dialogue between the Human Rights Committee and the representatives of Costa Rica had been constructive, even though some of the Committee's questions remained unanswered. Costa Rica had made great and largely successful efforts to establish a democratic society in which human rights were respected; he wished to emphasize, however, that it remained important to investigate and take action on complaints, especially in the area of religious discrimination. In that connection, he had been glad to hear the Costa Rican representative say that article 75 of the Constitution, which established preferential treatment for the Catholic religion, was somewhat obsolete, and to hear about the availability of other options in the matter of religious instruction. It would be a great victory for Costa Rica to achieve complete freedom of religion.

9. Mr. HERNDL said he felt that there had been an interesting and important exchange of views between the Committee and the representatives of Costa Rica, and it must be acknowledged that the report under discussion was from a State party known for its devotion to human rights, both internationally and within its own country. Nevertheless, he considered that some confusion still remained with regard to the human rights situation in Costa Rica, for example in connection with the situation referred to in paragraph 175 of the report (CCPR/C/70/Add.4).

(Mr. Herndl)

10. The Committee's only real problem had been with the incomplete nature of the report. In that connection, he noted that the first and second reports had been criticized on the same grounds. He was surprised that the Costa Rican Government should again have submitted a report in which the specific criticisms made in earlier years had not been taken into account, and he hoped that the next report would be an improvement in that respect. He noted that the Centre for Human Rights offered assistance and training in the preparation of such reports.

11. Mr. BRUNI CELLI welcomed the positive dialogue with the Costa Rican delegation, which had provided more information than the report. He urged the Government of Costa Rica to take into account the Committee's comments and to consult the guidelines for the preparation of reports to ensure that its next report would be acceptable, with the ultimate goal of making the application of the Covenant more effective. The Government should also follow the Committee's recommendation that the report should be disseminated to the public and to human rights organizations. Contributions from non-governmental organizations would be welcome, since the current report presented only the government point of view.

12. Nevertheless, the information that the Legislative Assembly would soon review the Second Optional Protocol with a view to its ratification was encouraging, as was the information provided both orally and in the report on the constitutional status of international instruments. Costa Rica's institutional development in the area of human rights, as evidenced most recently by the establishment of the General Office for the Protection of Human Rights and the Office for the Protection of Citizens, was an excellent achievement.

13. Mrs. CHANET said that the Committee rarely encountered problems of communication with a country where respect for human rights was as well developed as in Costa Rica. Thus, it was even more regrettable that Costa Rica had not used the opportunity presented by the submission of the report to highlight its achievements in the field. There had been an apparent misunderstanding regarding the reporting obligations of States parties to the Covenant.

14. The answers to her questions on the right of appeal had not been specific. Furthermore, regarding minorities, article 27 of the Covenant dealt with positive protection for such groups rather than non-discrimination. In any case, a reference to the reports already submitted to the Committee on the Elimination of Racial Discrimination was not an adequate response. She recommended that the fourth periodic report should be drafted by lawyers specializing in human rights areas. It should be disseminated to the news media and non-governmental organizations before its submission to the Committee. Ideally, non-governmental organizations should participate in its drafting.

15. Mr. LALLAH recalled that the second periodic report had also been unsatisfactory and had not allowed for a systematic discussion by the Committee. Unfortunately, the misperceptions as to the duties of Costa Rica under article 40 of the Covenant had apparently continued. He requested the delegation to convey in the strongest terms to the Costa Rican authorities that the fourth periodic report must follow the Committee's guidelines. In his view, Costa Rica was not necessarily in a disadvantaged position, since smaller and poorer countries still were able to submit well-written reports.

16. Mr. WENNERGREN said that, although the members of the delegation had made commendable efforts to answer the Committee's questions, the dialogue had not been as fruitful as expected, because the report was unsatisfactory. The Committee was an independent body, and it should be stressed that it was not acceptable to refer to reports provided to other committees in answer to its queries.

17. His remaining concerns lay in the areas of labour legislation and freedom of religion. Labour legislation in Costa Rica appeared to be less advanced than other types and not in conformity with ILO requirements. He had not received an answer concerning possible redrafting of the labour laws. Regarding freedom of religion, article 75 of the Constitution seemed to limit freedom of religion on grounds unacceptable under article 18 of the Covenant.

18. Mrs. HIGGINS said that, in her experience, States often complied meticulously with their reporting obligations under the Covenant, while their true performance in protecting human rights left much to be desired. It was unusual to encounter a situation such as Costa Rica's, where respect for human rights was exemplary but the reporting obligations had not been fulfilled. Eternal vigilance was necessary, since the human rights situation in a given country was never static. The Committee's role was to encourage those States whose human rights situation was less secure, and to monitor the impact of such external factors as an adverse economic climate on the implementation of the Covenant. She was disappointed that she had received no reply to her specific questions on trade unions, pre-trial detention, articles 9 and 10, and the professionalism of the police. Even if some overlap existed with reports supplied to another treaty body, Costa Rica's duty to report to the Committee still remained. Nor was its failure to report exonerated by its support to the Commission on Human Rights and other United Nations activities in the field.

19. Mrs. EVATT said she had already expressed her disappointment that the report had not made use of the information available on measures taken since the previous report and progress made in areas of concern. The information given orally was certainly valuable, but could not substitute for an adequate written report.

20. It was encouraging to note that the constitutional and legal framework and the remedies available appeared to be very much in keeping with the Covenant, and that Costa Rica had diverted significant resources away from maintaining a standing army. In her view, however, several areas of concern remained. For example, workers in small agricultural enterprises were effectively denied the right to organize, through dismissal and blacklisting. Such workers appeared to fall outside any form of protection for their rights. She was still anxious to

(Mrs. Evatt)

learn whether any mechanism to protect the rights of such workers existed. In the area of gender equality, Costa Rica had passed excellent laws, but she would welcome more information on how they were implemented in practice. Another area of concern was the lengthy delay in bringing cases to trial resulting in long periods of pre-trial detention and some reports of abuse of detainees.

21. Non-governmental organizations and the rational community in general should be encouraged to participate in the preparation of future reports.

22. Mr. MAVROMMATIS said that the deficiencies in the report, together with the lack of specificity in the replies to some of the questions raised, had made it difficult for the Committee to evaluate the information provided. The next periodic report would be due in a year's time, and he urged the delegation to insist that the Government should not only follow the guidelines for its preparation, but should also provide the details that were missing from the current report.

23. He had the impression that the Covenant ranked low in the Government's estimation, although he doubted that that was indeed the case. He endorsed the comments made by previous speakers concerning the delegation's assertion that it did not need to reply to certain questions, as the answers could be found in the reports submitted to other treaty bodies. In ratifying the Covenant, the Government had undertaken to give an account of its efforts to implement each and every article, regardless of whether a similar provision was to be found in other instruments. It might be advisable for the delegation to include persons who would take note of the specific questions raised and transmit them to the authorities.

24. With regard to the Solidarista associations, it was encouraging that the Government did not intend to permit the situation to deteriorate to the point where it might affect tripartite cooperation within the country, industrial peace or social justice; nevertheless that danger persisted. As the issue was evolving into a regional phenomenon, affecting at least four countries, it was to be hoped that the Government would monitor the situation closely with a view to preserving trade-union rights.

25. Mr. FRANCIS said that the Committee was in agreement on several matters, namely, the Government's satisfactory compliance with its obligations under the Covenant; the Government's failure to comply, in respect of both form and content, with the Committee's guidelines for the preparation of reports; and the comment made by Mrs. Higgins regarding the delegation's statement that the answers to some questions could be found in reports submitted to other United Nations bodies. He strongly hoped that full compliance would be achieved in the fourth periodic report.

26. With regard to the guarantees of protection of detainees, as referred to in paragraph 51 of the report, it was precisely those types of issues that required further elaboration. For instance, it would be useful for the Committee to know how many police officers had been punished for breaking the rules.

27. Mr. NDIAYE endorsed the comments made by the preceding speakers. The Government's silence on particular questions was all the more regrettable as it was those issues that were of greatest concern to the Committee. While it was true that section III (c) and (e) of the list of issues had been formulated in very general terms, the Committee had been unable to do otherwise in the absence of more specific information. The Committee still did not know what steps had been taken for the advancement of the minority group of African descent, which, according to the report, constituted 5 per cent of the population. The Government merited criticism for not having publicized the report.

28. Mr. SADI stressed that, in future, the delegation should include those responsible for preparing the report, as they were the only ones who could supplement the information provided. While he had no doubt that the human rights situation in the country was basically good, the problem for the Government was how to meet its treaty obligations under the Covenant.

29. The CHAIRMAN said that full details should be provided in the next report on such issues as equality of the sexes, pre-trial detention and the treatment of detainees, and the treatment of minorities. In addition, the Government should inform the public of the Committee's response to the report.

30. Mr. TATTENBACH (Costa Rica) said that he deeply regretted the deficiencies in the report and his Government's failure to address the criticisms made by the Committee during its consideration of the previous report. He would convey all of the Committee's comments to his Government and would ensure that the next report was prepared in accordance with the requirements. He appreciated the Committee's recognition that the substance of the report was generally acceptable, and hoped that the members would understand that his country, like others in the region, suffered from problems of bureaucratic inertia that made it difficult to effect changes.

31. Mr. SEGURA (Costa Rica) stressed his Government's desire to cooperate with the Committee and to strengthen the country's human rights protection mechanisms.

32. The CHAIRMAN said that the Committee had concluded its consideration of the third periodic report of Costa Rica. He urged the Government to submit its fourth periodic report in a timely manner.

The meeting rose at 12.15 p.m.